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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CR 16-71663
	)	
Plaintiff,	)	MEMORANDUM BY THE UNITED STATES IN
	)	FURTHER SUPPORT OF THE DETENTION OF
v.	)	MARCUS ETIENNE
	)	
MARCUS ETIENNE,	)	Hearing date: February 1, 2017
	)	
Defendant.	)	
	)	

**INTRODUCTION**

This is no ordinary marijuana conspiracy case. As the Complaint describes, it is a multi-district marijuana conspiracy that resulted in the murders of two of the defendant's co-conspirators. The evidence—some of which was shared with the Court during the defendant's detention hearing—implicates the defendant in these homicides. Not only is the defendant facing a five-year mandatory minimum sentence in this case, he is also aware that he is under investigation for those homicides. In short, he has strong incentive to flee and the financial means to accomplish it. As if that were not sufficient, the defendant has a long history of violating court orders. Given the facts and circumstances of this case—as further described below—it is no surprise that Pretrial Services Offices in two different districts have recommended that the defendant be detained.

1 There is ample reason for the Court to find that, by clear and convincing evidence, no condition  
 2 or combination of conditions in 18 U.S.C. § 3142(c) will reasonably assure the safety of any other  
 3 person and the community. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d  
 4 1403, 1406 (9th Cir. 1985). The Court should also find by a preponderance of the evidence that no  
 5 condition or combination of conditions will reasonably assure the defendant's presence in court. *Id.*

## 6 7 **ARGUMENT**

### 8 **The Defendant Poses an Incredible Risk of Flight.**

9 The defendant has a criminal history that is replete with failures to appear. In reviewing his  
 10 criminal history, undersigned counsel counted *nine* separate failures to appear/bench warrants/fugitive  
 11 warrants. As if that were not bad enough, he also has a conviction for committing a battery on a police  
 12 officer. *See* Exhibit A. His conviction history also includes multiple violations of probation, as well as  
 13 felony convictions for possession with intent to distribute cocaine. Some of these convictions overlap.  
 14 Moreover, the defendant has ready access to huge amounts of capital and he has strong incentive to flee.  
 15 A review of a drug ledger, located at the found during a May 2016 search executed at the defendant's  
 16 home—and confirmed by his co-defendant as a drug ledger of money owed to the defendant—shows  
 17 that multiple individuals owe and/or have already paid the defendant tens of thousands of dollars in  
 18 connection with this marijuana conspiracy, furthering the defendant's access to funds which could aid in  
 19 his flight. A review of defendant's flight records also shows consistent travel throughout the United  
 20 States. The defendant has not and cannot explain how a halfway house environment—an environment  
 21 everyone agrees he can simply walk away from—could mitigate this risk.

### 22 23 **The Defendant is a Danger to the Community.**

24 In addition to the defendant's history of flouting court orders, this Court should be concerned by  
 25 the fact that the defendant is under investigation for two different homicides—murders of his co-  
 26 conspirators in the very conspiracy charged in this case. With respect to the March 2016 murder of his  
 27 co-conspirator Thibodeaux in Oakland, CA, flight records indicate that the defendant flew to the bay  
 28 area with Thibodeaux and flew back right before the murder. This is consistent with the statement that

1 soon-to-be murder victim Rodney Savoy gave to law enforcement after Thibodeaux's murder. Savoy  
2 made clear to law enforcement that he believed this defendant was responsible for Thibodeaux's  
3 murder—not as the shooter, but the one who directed it.<sup>1</sup> Savoy described uncharged co-defendant  
4 Mario Robinson as one of the defendant's enforcers. Savoy himself was murdered 5 months later in the  
5 area of defendant's hometown near Opelousas, Louisiana. When law enforcement questioned the  
6 defendant about Savoy's homicide at the time of his arrest, the defendant admitted that Savoy owed the  
7 defendant money when he was killed. The murder weapon has not been found concerning either  
8 homicide.

9 In the weeks before he was arrested in this case and had evidence destroyed (as discussed  
10 below), the defendant was arrested for threatening to kill his sister-in-law. He told her "that he was  
11 going to kill her, and put a bullet through her head." *See* Exhibit B. She was clear that she did not feel  
12 safe and was afraid of what the defendant would do to her. *Id.* This is the same sister-in-law whose  
13 home the defendant ordered another co-conspirator (Craig Marshall) to burglarize just last month.

14  
15 **The Defendant Has Already Obstructed Justice.**

16 On December 14, 2016—the day after he was arrested in the instant case, the defendant placed  
17 multiple phone calls trying to reach Craig Marshall to get him to conceal evidence. Marshall is an  
18 uncharged co-conspirator in the charged marijuana conspiracy. The defendant's phone calls to  
19 Marshall—made from a Louisiana jail—were recorded. In these calls, the defendant and Marshall (as  
20 well as another unknown male) discussed the search that law enforcement conducted at the time of the  
21 defendant's arrest, which occurred in Carencro, LA. Marshall told the defendant that he and the  
22 defendant's other cronies had been driving back and forth watching as law enforcement executed the  
23 warrant in Carencro, LA, which is the residence that Etienne was observed leaving prior to his arrest.  
24 The two discussed the fact law enforcement didn't find anything during the search. Law enforcement  
25 did not locate evidence concerning the aforementioned murders during the search warrant at the

26  
27 <sup>1</sup> The investigation into those murders is ongoing. As a result, undersigned counsel simply cannot  
28 disclose all of the information we have concerning these murders without jeopardizing the investigation,  
potential evidence and potential witnesses. Nor should the government have to, given the record before  
the Court and this defendant's history. There is more than enough to support his detention.

1 Carencro, LA residence.

2       Very quickly into their conversation, the defendant instructed Marshall to break into his mother-  
3 in-law's home to retrieve a Nike shoe box from the residence. In a later call, the defendant confirmed  
4 that Marshall and/or other individual(s) went to get "the stuff." Not surprisingly, the defendant's  
5 mother-in-law and sister-in-law later spoke with the Sheriff's Office and reported that there was a break-  
6 in at the residence. When police arrived, they observed that someone had used a tool to pry open a  
7 window; the window screen was on the floor. The defendant's mother-in-law provided police with  
8 consent to search the residence. The defendant's sister-in-law told police that she had observed a  
9 vehicle "continuously passing in front of the residence...at a very slow pace and routinely stop." *See*  
10 Exhibit B, filed under seal herewith. She "assumed that the occupants of the vehicle are the individuals  
11 responsible for breaking into the residence." *Id.* She also noted that the home had never been  
12 burglarized before. In sum, the home was burglarized on the very evening that the defendant directed a  
13 co-conspirator(s) to go there to retrieve a shoebox. Nothing was reported stolen from the residence,  
14 however, if a shoebox that Etienne described had been there, it was gone when law enforcement  
15 searched the house after the burglary.

16  
17 **A Halfway House Does Nothing to Mitigate these Risks.**

18       The government is troubled by the Court's inclination to place the defendant in a halfway house.  
19 There is nothing whatsoever preventing a defendant from simply walking out of a halfway house. There  
20 are no locks on the doors, and no armed guards. In *Fulgham*, Judge Westmore recognized the well-  
21 known, irrefutable fact in denying a similar motion. 2012 WL 2792439, at \*5 ("Defendant suggested  
22 that he live in a halfway house, but that is not a viable option because he could walk away from a  
23 halfway house at any time."). During the detention hearing, the Court remarked that it is possible for the  
24 defendant to order a homicide from jail. However, as the Court is aware, jail calls are recorded and  
25 monitored. Ordering a homicide on a jail call would make Etienne both incredibly stupid and incredibly  
26 brazen. By contrast, calls made from a halfway house are free from scrutiny. Placing defendant  
27 Etienne, a.k.a., "Hitler" in an unfettered halfway house environment would be a boon for him. The  
28 government's fears are neither speculative nor unwarranted. This man is being investigated for two

1 homicides. The government does not believe that he is finished.

2 All of the following remains unchanged: 1) Pretrial Services in two districts recommended that  
3 the defendant be detained; 2) The defendant has numerous bench warrants for failure to appear; 3) the  
4 defendant was convicted for battery on a police officer; 4) the defendant knows that he is being  
5 investigated for murdering his co-conspirators (crimes for which he would face life); 5) the defendant is  
6 currently facing a mandatory minimum imprisonment of five years; 6) the defendant has already  
7 directed a co-conspirator(s) to destroy evidence from county jail, thereby obstructing justice; and 7) the  
8 defendant is free to simply walk away from a halfway house. It is inconceivable how releasing  
9 defendant Etienne to a halfway house could mitigate the risks he poses and no one has even tried to  
10 establish how a halfway house could possibly hold him.

11  
12 **CONCLUSION**

13 For all of the above reasons, the government respectfully requests that defendant Etienne be  
14 detained for the safety of the community and because he is a demonstrated risk of flight.

15  
16 Dated: January 29, 2017

Respectfully submitted,

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18 UNITED STATES ATTORNEY

19 By: /s/  
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